

CITY OF PORTSMOUTH PLANNING DEPARTMENT

MEMORANDUM

To: Planning Board

From: Juliet T.H. Walker, Planning Director

Jillian Harris, Planner 1

Subject: Staff Recommendations for the January 16, 2020 Planning Board Meeting

Date: 01/13/20 revised 1/14/20

III. DETERMINATIONS OF COMPLETENESS

1. SITE PLAN REVIEW

A. The application of **Dagny Taggart**, **LLC**, **Owner**, for property located on **Daniel Street (aka 60 Penhallow Street)** requesting Site Plan Review approval.

- B. The application of **Five Hundred Five Lafayette Rd., LLC, Owner**, for property located at **605 Lafayette Road** requesting Amended Site Plan Review approval.
- C. The application of Pease Development Authority, Owner, and Lonza Biologics, Inc., Applicant, for property located at 101 International Drive requesting Site Plan Review approval under Chapter 400 of the Pease Land Use Controls, Site Review Regulations.

Planning Department Recommendation

Vote to determine that the applications are complete according to the Site Plan Review Regulations contingent on the granting of any required waivers under Section V of the agenda and to accept the applications for consideration.

IV. PUBLIC HEARINGS - OLD BUSINESS

A. The application of the Maud Hett Revocable Trust, Owner, for property located on Banfield Road, requesting a Wetland Conditional Use Permit to impact 4,013 square feet of inland wetland and 21,089 square feet of wetland buffer to construct 22 single family homes. Impacts include installation of three forty-two food wide culverts for a road crossing through a wetland and wetland buffer impacts for road construction and stormwater management. Said property is shown on Assessor Map 256 Lot 02 and lies within the Single Residence A (SRA) District.

Description

This application was postponed at the December 21, 2019 meeting until such a time as the site plan review application is before the Board for review.

B. The application of **James and Mallory Parkington**, **Owners**, for property located at **592 Dennett Street** requesting a Conditional Use Permit according to Section 10.814 of the Zoning Ordinance to construct an attached Accessory Dwelling Unit with 672 sq.ft. +/- of gross floor area in the second story of a newly constructed attached garage. Said property is shown on Assessor Map 161, Lot 18 and lies within the General Residence A (GRA) District.

Description

The applicants have requested a postponement of the Planning Board's consideration of this application as they made modifications that require the granting of zoning relief.

Planning Department Recommendation

V. PUBLIC HEARINGS - NEW BUSINESS

It is recommended that Items V.A, V.B and V.C be discussed together and voted on separately.

A motion is required to consider these items together

- A. The application of the Bethel Assembly of God, Owner, for property located at 200 Chase Drive requesting a Conditional Use Permit in accordance with Section 10.1112.14 of the Zoning Ordinance for provision of 109 on-site parking spaces where a minimum of 134 are required. Said property is shown on Assessor Map 210, Lot 02 and lies within the Gateway Neighborhood Mixed Use Center (G2) District.
- **B.** The application of the **Bethel Assembly of God, Owner**, for property located at **200 Chase Drive** requesting Preliminary and Final Subdivision approval to subdivide a lot with an area of 2.7 acres (116,591 s.f.) and 1,635 ft. +/- of street frontage into two (2) lots as follows: proposed Lot 1 with an area of 89,054 s.f. and 1,106 ft. +/- street frontage and proposed Lot 2 with an area of 27,537 s.f. and 529 ft. +/- street frontage. Said property is shown on Assessor Map 210, Lot 02 and lies within the Gateway Neighborhood Mixed Use Center (G2) District.
- C. The application of the **Bethel Assembly of God**, **Owner**, for property located at **200 Chase Drive** requesting Conditional Use Permit approval for a Development Site according to the requirements of Section 10.5B40 of the Zoning Ordinance and Site Plan Review approval for the construction of a new 22-unit residential apartment building with a footprint of 7,660 s.f. and 29,607 s.f. GFA with grading, lighting, utilities, stormwater management, landscape improvements, and community space. Said property is shown on Assessor Map 210, Lot 02 and lies within the Gateway Neighborhood Mixed Use Center (G2) District.

Description

The Technical Advisory Committee (TAC) voted to recommend approval with stipulations for these applications at the January 7, 2020 meeting. TAC recommended they be heard at the February 20, 2020 Planning Board meeting at the request of the applicant to allow time for the applicant to address the stipulations of approval.

Note that the application descriptions have been updated for consistency with the most recent information from the applicant.

Planning Department Recommendation

D. The application of the Weeks Realty Trust, and Carter Chad, Owners and Tuck Realty Corporation, Applicant for property located at 3110 Lafayette Road requesting Site Plan Review approval for the construction of 18 residential townhomes in 5 structures with a footprint of 15,880 s.f. and 47,252 GFA with associated site improvements, grading, utilities, stormwater management and landscape improvements. Said property is shown on Assessor Map 292, Lot 151-1 and lies within the Single Residence B (SRB) District.

Description

The application is still under review with the Technical Advisory Committee.

Planning Department Recommendation

E. The request of **Dagny Taggart, LLC, Owner**, for property located on **Daniel Street (aka 60 Penhallow Street)** requesting Design Review for the construction of a 4-story commercial building with community space and associated site improvements. Said property is shown on Assessor Map 107, Lot 27 and lies within the Character District 4 (CD4) District.

Description

This application has been withdrawn by the applicant.

Planning Department Recommendation

Vote to accept the withdrawal of the application.

F. The application of **Dagny Taggart**, **LLC**, **Owner**, for property located on **Daniel Street** requesting Conditional Use Permit approval under Section 10.5A43.43 of the Zoning Ordinance and Site Plan Review approval for the construction of a new 4-story commercial building with a footprint of 17,200 s.f. +/- and 59,600 s.f. +/- GFA with associated site improvements, grading, utilities, stormwater management, landscape improvements, and community space. Said property is shown on Assessor Map 107, Lot 27 and lies within the Character District 4 (CD4) District.



<u>Description</u>

The applicant proposes to construct a new 4-story commercial building with a footprint of 17,200 s.f. and an underground parking garage and associated site improvements and community space. The property lies within the CD4 District where the maximum building footprint is 15,000 s.f. and the maximum building height is 3 stories or 40 feet.

Additional Building Height

Per Section 10.5A.43.33 a development that is not located in an incentive overlay district and that contains at least one acre of lot area shall be allowed an additional story in height (up to 10 feet) if at least 20% of the property is assigned and improved as community space. The building height requirement for this property is 3 stories or 40'. The applicant is proposing a building height of 39', but is proposing 4 stories. Therefore, the project must include a minimum of 20% of community space, which must have permanent deeded access to the City.

This application is part of a development project that also includes 3 Pleasant Street and 30 Penhallow Street, all of which are owned by the project proponent. The total combined lot area for these properties is 1.12 acres. The 3 Pleasant Street portion of the project which was previously granted site plan review approval by the Planning Board and included an increase in building height (of approximately 2') as allowed by Section 10.5A.43.33 for provision of 20% of community space. The zoning does not limit the number of buildings in a development that the additional building height can be applied to, therefore the Daniel Street project is also proposing to exceed the maximum number of stories in exchange for the provision of 20% community space. A conditional use permit approval is not required for this provision of the Ordinance.

Additional Building Footprint

Per Section 10.5A43.43 of the Zoning Ordinance, for a building that contains either ground floor parking, a parking garage, or underground parking levels, the Planning Board may grant a conditional use permit to allow a building footprint of up to 30,000 s.f. in the CD4 District if all of the following criteria are met:

- a) No story above ground floor parking shall be greater than 20,000 s.f.
- b) All ground floor parking areas shall be separated from any public or private street by a liner building. *
- c) At least 50% of the gross floor area of the ground floor shall be dedicated to parking.*
- d) At least 30% of the property shall be assigned and improved as community space. Such community space shall count toward the required open space and the community space required under 10.5A46.20. The size, location and type of the community space shall be determined by the Planning Board based on the size and location of the development, and the proposed and adjacent uses.
- e) The development shall comply with all applicable standards of the ordinance and the City's land use regulations.
- * Items b) and c) apply only when ground floor parking is proposed as part of the development. In this case, the project is proposing underground parking.

In order to comply with the requirements of this section of the Ordinance, the development must dedicate a minimum of 30% of the lot area to community space. This requires an additional 10% above the 20% previously allocated for the building height/story increase. Note, that this requirement is subject to a conditional use permit approval by the Planning Board including the determination of the appropriate size, location and type of the community space.

Historic District Commission Review

The Historic District Commission granted approval of the project at their November 13, 2019 meeting.

Technical Advisory Committee Review

The TAC reviewed this application at the January 7, 2019 meeting and voted to recommend approval with the following stipulations:

To be Completed Prior to Planning Board submission:

- 1.) The plans shall be updated to match the plans presented at the TAC meeting as "Transformer Location Alternative".
- 2.) The drainage plan shall indicate test pits are required to validate the design. Plan shall note potential impacts to the telephone duct system currently in the road as well as any required work with Consolidated Communications to relocate ducts as needed.
- 3.) Copies of the draft easements for community space and any other easements for which the City will be a party need to be submitted for Planning Board review.
- 4.) The Community Space Plan shall be updated to reflect the proposed limits of the pocket park along 30 Penhallow Street as discussed at the TAC meeting.
- 5.) A rendering of the proposed entrance to the community space plaza from the Daniel Street side shall be provided including the proposed location of the transformers.

To be included as Conditions of Planning Board approval (to be satisfied prior to building permit issuance):

- 6.) The applicant shall complete the traffic modeling for the project according to the City's requirements. Any required mitigation by the applicant in the form of improvements to traffic infrastructure shall be determined by the City's Planning Department and Public Works Department. If staff determines that additional Planning Board review is required as a result of the modeling, then the applicant will be required to return to the Planning Board for amended site plan review approval.
- 7.) Drainage test pits shall be completed to validate the design of the stormwater system, subject to final review and approval by DPW.
- 8.) The applicant shall prepare a Construction Management and Mitigation Plan (CMMP) for review and approval by the City's Legal and Planning Departments.
- 9.) All off-site improvements shall be subject to final review and approval by DPW as part of the excavation permitting process.

On January 9, 2020 the applicant submitted revised plans addressing stipulations 1-5 above to the satisfaction of the Planning Department. Regarding Item #6, the applicant has proposed the following additional considerations that have been included in the recommended stipulations of approval:

- a) The Applicant will be responsible for all costs associated with the Third Party contract and Three Party Agreement to finalize the City's traffic model.
- b) Should any further reasonable traffic engineering or be required, in the sole discretion of the Director of Planning, then the Applicant agrees to pay those costs.
- c) The Applicant agrees to make any traffic improvements, determined in the sole discretion of the Director of Planning, not to exceed \$20,000.

- d) If traffic improvements required exceeds \$20,000 or the parties have any disagreement that is unable to be resolved, then the Applicant will be required to seek Planning Board Approval for this condition.
- e) No permits or construction shall commence until the above traffic stipulations have been satisfied.

The remaining stipulations have been included below in the recommended stipulations of approval.

Planning Department Recommendation

- 1. Vote to find that the application satisfies the requirements of Section 10.5A43.43 and to grant the Conditional Use Permit to allow a building footprint of 17, 200 square feet.
- 2. Vote to grant Site Plan Review Approval with the following stipulations to be completed prior to building permit issuance:
 - 2.1) The applicant shall complete the traffic modeling and any required mitigation for transportation-related improvements according to the following requirements:
 - a) The Applicant will be responsible for all costs associated with the Third Party contract and Three Party Agreement to finalize the City's traffic model.
 - b) Should any further reasonable traffic engineering be required as determined by the Planning Director, then the Applicant agrees to pay those additional costs.
 - c) The Applicant agrees to make any traffic improvements, as determined by the Planning Director in consultation with the Department of Public Works, not to exceed \$20,000.
 - d) If cost of traffic improvements required exceeds \$20,000 or the parties have any disagreement that is unable to be resolved, then the Applicant will be required to seek amended Planning Board Approval for this condition.
 - e) No building or construction permits shall commence until the above stipulations have been satisfied.
 - 2.3) Drainage test pits shall be completed to validate the design of the stormwater system, which subject to final review and approval by DPW.
 - 2.4) The applicant shall prepare a Construction Management and Mitigation Plan (CMMP) for review and approval by the City's Legal and Planning Departments.
 - 2.5) All off-site improvements shall be subject to final review and approval by DPW as part of the excavation permitting process.
 - 2.6) Any easement plans and deeds for which the City is a grantor or grantee shall be reviewed and approved by the Planning and Legal Departments prior to acceptance by City Council.
 - 2.7 The site plan shall be reviewed for pre-approval by the Rockingham County Registry of Deeds and subsequently recorded by the City or as deemed appropriate by the Planning Department.

G. The application of Five Hundred Five Lafayette Rd., LLC, Owner, for property located at 605 Lafayette Road requesting Amended Site Plan Review approval for installation of a dumpster including a concrete pad and enclosure. Said property is shown on Assessor Map 229, Lot 09 and lies within the Gateway Neighborhood Mixed Use Corridor (G1) District.



Description

The applicant seeks amended site plan approval for the installation of a dumpster including concrete pad and enclosure and a waiver from Section 9.3.5 of the Site Plan Review Regulations to site the dumpsters within 20 feet of the property line.

Technical Advisory Committee Review

The TAC reviewed this application at the January 7, 2019 meeting and voted to recommend approval with the following stipulations:

- 1.) Plans shall be updated to include employee parking only signs for the three spaces in addition to the pavement markings.
- 2.) Plans should include an alternative dumpster screen commensurate with the quality and character of the recently constructed principal building.

On January 9, 2020 the applicant submitted revised plans addressing stipulation 1 above to the satisfaction of the Planning Department. The remaining stipulation has been included below in the recommended stipulations of approval.

Planning Department Recommendation

- 1. Vote to find that a waiver will not have the effect of nullifying the spirit and intent of the City's Master Plan or the Site Plan Review Regulations, and to waive the following regulations:
 - a) Section 9.3.5 requiring dumpsters or other waste container pads to be a minimum of 20 feet from any property line or yard.

[Note: An affirmative vote of six members of the Planning Board is required to grant a waiver.]

- 2. Vote to grant Site Plan Review Approval with the following stipulations:
 - 2.1) Plans should include an alternative dumpster screen commensurate with the quality and character of the recently constructed principal building.

H. The application of Pease Development Authority, Owner, and Lonza Biologics, Inc., Applicant, for property located at 101 International Drive requesting Site Plan Review approval under Chapter 400 of the Pease Land Use Controls, Site Review Regulations, for parking expansion at three different locations within the site resulting in a total of sixty new parking spaces with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 305 Lot 06 and lies within the Airport Business Commercial (ABC) District.



Description

The proposed project includes parking expansions at three locations on site resulting in a total of 60 new parking spaces.

Technical Advisory Committee Review

The TAC reviewed this application at the January 7, 2019 meeting and voted to recommend approval with the following stipulations:

- 1.) Plans shall be updated to include 2 more additional ADA spaces, closest to the building entrance, as required by standards.
- 2.) Plans shall be updated to show replacement trees along the road where new parking is proposed, consistent with those that are planned for the opposite side of the road.
- 3.) The applicant shall verify if there is a standpipe in the garage and coordinate with the Fire Department on requirements for access.

On January 9, 2020 the applicant submitted revised plans addressing stipulations 1-3 above to the satisfaction of the Planning Department. The remaining stipulations have been included below in the recommended stipulations of approval.

Planning Department Recommendation

1. Vote to recommend Site Plan Review approval as presented.

I. The application of Hope for Tomorrow Foundation, Owner, for property located at 355 (315) Banfield Road requesting Amended Site Plan Review approval for the construction of a 17,000 s.f. freestanding gymnasium and associated parking area to serve the existing private school on the property with related paving, lighting, utilities, landscaping, and drainage improvements. Said property is shown on Assessor Map 266 Lot 05 and lies within the Industrial (I) District.

Description

The applicant has requested to postpone to the February 20, 2020 Planning Board Meeting.

Planning Department Recommendation

J. The application of DPF 1600 Woodbury Avenue, LLC, Owner, for property located at 1600 Woodbury Avenue requesting Amended Site Plan Review approval to upgrade the existing shopping center with new and additional signage, a new driveway entrance off of Woodbury Avenue, and repurposing of the former supermarket space to separate retail space and new grocery space with accessory café/food court. Said property is shown on Assessor Map 238 Lot 16 and lies within the Gateway Neighborhood Mixed Use Corridor (G1) District.

Description

The application is still under review with the Technical Advisory Committee.

Planning Department Recommendation

K. The application of the Maud Hett Revocable Trust, Owner, for property located on Banfield Road requesting Conditional Use Permit approval for an Open Space Planned Unit Development according to the requirements of Section 10.725 of the Zoning Ordinance and Site Plan Review approval for the construction of 22 single-family homes and a new road with related parking, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 256 Lot 02 and lies within the Single Residence A (SRA) District.

Description

The application is still under review with the Technical Advisory Committee.

Planning Department Recommendation

VI. OTHER BUSINESS

A. The request of **Patrick Liam Hughes** for property located at **65 Fields Road** for a 1-year extension of the Conditional Use Permit for an Attached Accessory Dwelling Unit that was granted on February 21, 2019.

Description

The project received conditional use permit approval from the Planning Board on February 21, 2019 for and attached accessory dwelling unit in an existing residential structure with a footprint of 760 s.f. and a gross floor area of 760 s.f.

Planning Department Recommendation

Vote to approve a 1-year extension of the Conditional Use Permit Approval to expire on February 21, 2021.

B. Request for a water services access easement to be granted to the City of Portsmouth for property located on Fox Point Road in Newington, NH.

Description

This property, located in a subdivision in Newington, will be served by City of Portsmouth water. A standard requirement by the City for properties served by the City is to request that an access easement be deeded to the City for the purpose of maintaining the water service.

Planning Department Recommendation

Vote to recommend that the City Council accept an access easement for water services for this property.

VI. OTHER BUSINESS (cont.)

As authorized by NH RSA 676:4,II, the Site Plan Review Regulations require preliminary conceptual consultation for certain proposals, including (1) the construction of 30,000 sq. ft. or more gross floor area, (2) the creation of 20 or more dwelling units, or (3) the construction of more than one principal structure on a lot. Preliminary conceptual consultation precedes review by the Technical Advisory Committee.

Preliminary conceptual consultation is described in the state statute as follows:

[Preliminary conceptual consultation]... shall be directed at review of the basic concept of the proposal and suggestions which might be of assistance in resolving problems with meeting requirements during final consideration. Such consultation shall not bind either the applicant or the board and statements made by planning board members shall not be the basis for disqualifying said members or invalidating any action taken. The board and the applicant may discuss proposals in conceptual form only and in general terms such as desirability of types of development and proposals under the master plan.

The preliminary conceptual consultation phase provides the Planning Board with an opportunity to review the outlines of a proposed project before it gets to detailed design (and before the applicant refines the plan as a result of review by the Technical Advisory Committee and public comment at TAC hearings). In order to maximize the value of this phase, Board members are encouraged to engage in dialogue with the proponent to offer suggestions and to raise any concerns so that they may be addressed in a formal application. Preliminary conceptual consultation does not involve a public hearing, and no vote is taken by the Board on the proposal at this stage. Unlike Design Review, completion of Preliminary Conceptual Consultation does not vest the project to the current zoning.

- C. The request of Vaughan Street Hotel, LLC and Stone Creek Realty, LLC, Owners and XXS Hotels, LLC, Applicant, for properties located at 299 Vaughan Street and 53 Green Street for Preliminary Conceptual Consultation for the construction of a 5-story hotel with community space. Said properties are shown on Assessor Map 124 Lot 10 and Assessor Map 119 Lot 2 and lie within in the Character District 5 (CD5) District.
- D. The request of **JSA Trust and Powerhouse Realty Trust, Owners**, for property located at **361 Hanover Street** for Preliminary Conceptual Consultation for construction of a 2-story, 2,645 s.f. addition to the existing office building, a 14,615 s.f. addition to the existing building and a 3-story mixed-use building consisting of a ground floor non-residential use and 2-stories of residential use. Said property is shown on Assessor Map 138 Lot 63 and lies within the Character District 5 (CD5) District.

VII. DESIGN REVIEW- ACCEPTANCE OF REQUEST

A. The request of **JSA Trust and Powerhouse Realty Trust, Owners**, for property located at **361 Hanover Street** for Design Review of construction of a 2-story, 2,645 s.f. addition to the existing office building, a 14,615 s.f. addition to the existing building and a 3-story mixed-use building consisting of a ground floor non-residential use and 2-stories of residential use. Said property is shown on Assessor Map 138 Lot 63 and lies within the Character District 5 (CD5) District.

Description

This item is a request for Design Review under the Site Plan Review Regulations. Under the State statute (RSA 676:4,II), the Design Review phase is an opportunity for the Planning Board to discuss the approach to a project before it is fully designed and before a formal application for Site Plan Review is submitted. The Design Review phase is not mandatory and is nonbinding on both the applicant and the Planning Board.

Although the State statute calls this pre-application phase "design review," it does not encompass review of architectural design elements such as façade treatments, rooflines and window proportions. Rather, it refers to site planning and design issues such as the size and location of buildings, parking areas and open spaces on the lot; the interrelationships and functionality of these components, and the impact of the development on adjoining streets and surrounding properties.

The process as outline in Section 2.4.3 of the Site Review regulations is that the Board first has to determine that the request for design review includes sufficient information to allow the Board to understand the project and identify potential issues and concerns, and, if so, vote to accept the request and schedule a public hearing. *Completion of the design review process also has the effect of vesting the project to the current zoning.*

Design review discussions must take place in a public hearing. At the conclusion of the public hearing process, the Board makes a determination that the design review process for the application has ended.

Planning Department Recommendation

Vote to accept the request and schedule a public hearing for the February 20, 2020 Planning Board meeting.

VII. DESIGN REVIEW- ACCEPTANCE OF REQUEST (Cont.)

B. The request of Vaughan Street Hotel, LLC and Stone Creek Realty, LLC, Owners and XXS Hotels, LLC, Applicant, for properties located at 299 Vaughan Street and 53 Green Street for Design Review for the construction of a 5-story hotel with community space. Said properties are shown on Assessor Map 124 Lot 10 and Assessor Map 119 Lot 2 and lie within in the Character District 5 (CD5) District.

Planning Department Recommendation

Vote to accept the request and schedule a public hearing for the February 20, 2020 Planning Board meeting.

VIII. CITY COUNCIL REFERRAL

A. Request for restoration of involuntarily merged lots at 27 Thaxter Road, Assessor Map 166, Lot 39.

Description

As described in the memo from the Legal Department included in the Planning Board packet, this request was previously before the Planning Board. Involuntarily merged lot requests are not required by state law to go before the Planning Board and the state statute (provided for in the packet as a reference) does not provide details on the process for which such requests should be considered nor does it stipulate the specific criteria for review and approval of these requests. However, the Council has typically referred these requests to the Planning Board in order to provide an opportunity for abutters to be notified and a public hearing to be held on the request.

After the City Council's decision to grant the restoration of involuntarily merged lots was subsequently appealed, the Board of Adjustment remanded the decision back to the City Council and, in December, the Council voted to refer back to the Planning Board for further review. The information submitted to the Council is provided in the Planning Board's packet and the attorneys for the appellant and the property owner have been asked to have a representative available at the Planning Board meeting to answer any questions.

A copy of the Planning Director's memo to the City Manager from May of this year which summarizes the Planning Board's prior action on this matter is provided in the packet for the Board's reference.